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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/254,407

02/07/2000

MICHAEL WILLIAM GRADY

JJM-399

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EXAMINER

WHITE, EVERETT NMN

ART UNIT

PAPER NUMBER

1623

MAIL DATE

DELIVERY MODE

03/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/254,407	Applicant(s) GRADY ET AL.	
	Examiner EVERETT WHITE	Art Unit 1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) 1-8, 11, 12, 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9, 10, 13 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on October 21, 2008 has been entered.

Election/Restrictions/Status

2. Applicant's election without traverse of Group I, Species - wound dressing, Claims 9, 10, 13 and 17 in the reply filed on February 25, 2009 is acknowledged. Claims 1-8, 11, 12, 14 and 15 are withdrawn from consideration as being directed to non-elected inventions. Claim 16 has been canceled.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13, which is drawn to a pharmaceutical composition according to claim 17, lacks clear antecedent basis since Claim 17 is drawn to a wound dressing and does not recite the phrase "pharmaceutical composition", which renders Claim 13 indefinite.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 9, 13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tunc (US Patent No. 3,800,797).

Applicants claim a wound dressing comprising a synthetic sulfated polysaccharide, wherein the sulfated polysaccharide is selected from the group consisting of sulfated hydroxyethyl cellulose, sulfated carboxymethyl cellulose and sulfated oxidized regenerated cellulose, said synthetic sulfated polysaccharide being present in an amount sufficient to bind matrix metalloproteinases.

The Tunc patent discloses a barrier film which has utility in connection with absorbent products of various applications that include “dressings” (see column 1, line 9). The Tunc patent discloses the barrier film as comprising a film of sulfated alkali cellulose ether resin, wherein the sulfated alkali cellulose ether of the resin may be selected as sodium hydroxyethyl cellulose sulfate, which anticipates instant Claims 13 and 17 when the instantly claimed wound dressing comprises the sulfated hydroxyethyl cellulose. The Tunc patent also discloses the barrier film thereof as being useful in connection with absorbent products that include napkins and diapers, which anticipate the woven, non-woven, sponge or knitted fabric recited in instant Claim 9.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claims 9, 10, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tunc (US Patent No. 3,800,797) in view of Reich (US Patent No. 5,124,155).

Applicants claim a wound dressing comprising a synthetic sulfated polysaccharide, wherein the sulfated polysaccharide is selected from the group consisting of sulfated hydroxyethyl cellulose, sulfated carboxymethyl cellulose and sulfated oxidized regenerated cellulose, said synthetic sulfated polysaccharide being present in an amount sufficient to bind matrix metalloproteinases.

The Tunc patent discloses a barrier film which has utility in connection with absorbent products of various applications that include "dressings" (see column 1, line 9). The Tunc patent discloses the barrier film as comprising a film of sulfated alkali cellulose ether resin, wherein the sulfated alkali cellulose ether of the resin may be selected as sodium hydroxyethyl cellulose sulfate, which embraces instant Claims 13 and 17 when the instantly claimed wound dressing comprises the sulfated hydroxyethyl cellulose. The Tunc patent also discloses the barrier film thereof as being useful in connection with absorbent products that include napkins and diapers, which embrace the woven, non-woven, sponge or knitted fabric recited in instant Claim 9.

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The instantly claimed invention differs from the Tunc patent by further claiming that the wound dressing is in the form of solid complex with collagen.

The Reich patent shows that dressings in the form of solid complex with collagen are well known in the art. See the abstract of the Reich patent wherein a wound healing dressings in the form of sheets, strips, wedges, strands or I-shaped cross sections are prepared. Also see column 4, lines 61 and 62 of the Reich patent wherein the dressing thereof further comprises collagen.

One of ordinary skill in this art would be motivated to combine the teaching of the Tunc patent with the teaching of the Reich patent since both documents disclose preparation of wound dressings.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate into the dressing comprising a sulfated hydroxyethyl cellulose of the Tunc patent collagen in view of the recognition in the art, as evidenced by the Reich patent, that collagen exhibits beneficial effects in wound healing, such as by providing a matrix for cell migration and growth.

Summary

9. Claims 9, 10, 13 and 17 are rejected; Claims 1-8, 11, 12, 14 and 15 are withdrawn from consideration as being directed to non-elected inventions.

Examiner's Telephone Number, Fax Number, and Other Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Everett White whose telephone number is 571-272-0660. The examiner can normally be reached on 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Everett White/

Examiner, Art Unit 1623

/Shaojia Anna Jiang/

Supervisory Patent Examiner, Art Unit 1623